MEETING SUMMARY for MERCURY WORK GROUP

Date: March 3, 2003
10:00 am –12:30 pm
Location: 2525 North Shadeland Avenue
Conference Room C
Indianapolis, IN

Present at the meeting:
Tom Barnett (Ispat Inland), John Chavez (City of Indianapolis), John Fekete (Ispat Inland), Eric Fry (B.B. Coal), Kevin Hoge (Nisource), Tom Neltner (IKE), and Don Silvey (Commonwealth Engineers). Participating by way of conference call were Morris Beaton (EPA), Robin Garibay (The Advent Group), Charlotte Read (environmental representative), Tim Lohner (AEP), and Cyndi Wagner (Whittman Hydro Planning Associates).
Representing IDEM were John Donnellan, Meredith Kostek, Steve Roush, Paula Smith, and MaryAnn Stevens.

Acceptance of meeting minutes
The meeting minutes from the October 3, 2003, and January 29, 2003, meetings were accepted by the workgroup. Both sets of minutes are posted on the IDEM, Office of Water Quality's Mercury website, a part of the total Triennial Review website.

Discussion topics

1. After introductions by facilitator, Paula Smith, Don Silvey asked to be included as an interested party to the workgroup. He referred to the project scope described in the workplan and asked that it be revised to include a policy for new dischargers so that they can also be covered by minimization efforts as a variance from meeting mercury water quality standards. Charlotte Read stated that the Great Lakes Initiative (GLI) prevents any possibility of including Don's request. The workgroup agreed that existing rules require new dischargers to meet limits and not be given a variance.

2. Discussion proceeded to the definitions of terms with Charlotte stating "intermitting discharger", referring to a discharge that ceases then later recommences to discharge, needs to be defined. Morris Beaton, EPA, definitively stated that the regulations make a distinction between "sources" and "dischargers". Other variations of these terms that were put before the workgroup included: "new discharger", "new restarting discharger", and "new sources". Charlotte restated that new sources and recommencing dischargers must meet standards at the end of treatment pipe.

3. The workgroup discussed House Bill 1221, currently in the Indiana General Assembly, and whether it still contains language dealing with variance from water quality standards. Tom Neltner said the question at issue in the bill language is whether a variance can be administratively extended. Charlotte raised the fact that a first notice for variance rulemaking has previously been published, and she wants to know if rulemaking will go forward from that first notice or if it will be reissued. Meredith Kostek spoke about the enhanced first notices that IDEM has begun to issue and said that, according to conversations with outside parties who wish for more detail in the published first notice, a new first notice, like the one written for anti-degradation, is appropriate for mercury. General consensus seemed to exist among the workgroup members to begin work on a new first notice even with the understanding

that to begin the rulemaking anew will add a minimum of three months to the rulemaking process. A sixty (60) day comment period included with the first notice had support by the workgroup.

4. Paula brought the meeting back to the original agenda items with discussion about the mercury workplan that needs to be finalized by the workgroup. The obvious fact that the workplan's dates are off resulted in the decision to continue to call the workplan "draft" when it is presented or discussed with the next Triennial Steering Committee meeting on March 19, 2003. Tim Lohner volunteered to give a mercury workgroup status presentation to the March 19th Triennial Steering Committee. Paula asked that the workgroup members e-mail her any changes or contributions to the workplan, and she will finalize it before the next scheduled meeting of the mercury workgroup. John Fekete discussed his presentation that he gave to the Water Pollution Control Board on February 12, 2003, about the status of the mercury workgroup efforts.

5. The lengthiest discussion of this workgroup meeting concerned: "What do we do with all the research information that has been accumulating?" and "Do we have enough of the correct type of data?". MaryAnn Stevens handed out the table of contents of the file folder where she has organized the electronic documents that various workgroup members have contributed. As of this meeting, the contents included twenty-four (24) named documents. MaryAnn also has several documents in hard copy form for which there apparently are no electronic versions available. These include: (1) an AEP internal report, "Evaluation of a Low-Level Mercury Analytical Method at Selected AEP Discharges (AEP R&D Project No. 1002)"; (2) a North Carolina list of NPDES facilities subject to EPA Method 1631 for Total Mercury; (3) a North Carolina letter to NPDES Permittees about Implementation of EPA Method 1631; (4) an EPA Capsule Report, July 1997, "Aqueous Mercury Treatment"; and (5) Eric Fry's ambient mercury data sampling locations map.
Robin Garibay restated the need for information based on determining how many facilities have a problem with mercury. Robin contends we cannot have confidence in old data because current studies show old data include many false positives of too high mercury levels. Prior to use of Method 1669 establishing clean sampling techniques, contamination of samples during the collection and analysis phases led to introduction of mercury into the sample itself. Robin explained, and Morris agreed, that total mercury could be removed through settling because it is attached to total suspended solids, but if the mercury is soluble or attached to small particles of a size too small to settle then removal is difficult to achieve. Robin pointed out that data is missing for Gary and East Chicago from the 1999 and 2000 TMDL sampling in northwest Indiana. This data would be useful in determining what communities have a mercury problem and might be in need of a variance.
Charlotte contributed that any community discharging 1MGD or more will have a mercury requirement to monitor using Method 1631 that will be included in the next issuance of the NPDES permit. Tom Neltner expressed deep concern with the prospect of ignoring fifteen years of data because there are communities with very high mercury levels that would still be too high in the discharge of mercury even if Method 1669 had been used. Tom disagreed with Robin's dismissal of old data and statement that beyond ninety-eight percent (98%) removal of mercury is too difficult. Tom pointed out again as he has in prior meetings that Valparaiso consistently is getting near or below its mercury limit.

6. Terminology became a stumbling block in the meeting discussions. Tom Neltner dislikes the use of the term "statewide variance" and prefers "general variance". Tom believes his term, general variance, describes what EPA means when it speaks of "multiple discharger variance". However, Charlotte is concerned this term is describing a "streamlined" variance process that she refuses to agree is appropriate. Tom stated that a general variance could include many specific requirements to eliminate and minimize mercury and a discharger could be asked to submit an individual application for a general variance for mercury. Along these lines, Tim Lohner elucidated a rather sizable list of items required by

Ohio to be included in a mercury variance application. This, in turn, led to the question of what is EPA's review process for an NPDES permit containing a general variance for mercury where EPA previously has approved the use of the mercury variance. EPA has approved the Ohio statewide mercury variance rule (though Tom Neltner interjected that it is a very bad rule), and the workgroup felt it would be important information to know what EPA considers during its review of a mercury variance included in a NPDES permit. Morris added that EPA still has to notify US Fish and Wildlife to consider endangered species, but he referred the workgroup to Dave Pfieffer of EPA for more details of the EPA review.

7. Charlotte wants any mercury variance rule in Indiana to include an upper limit on mercury discharges similar to what was included in the 1999 draft rule language that was published for the Triennial Review of water quality standards. Tom Neltner wants this current mercury variance rulemaking to include a revision to the state mercury water quality standard with the limits applied in the Great Lakes basin area under GLI to also be applicable throughout the remainder of the state.

To Do List

- Acquire the rainfall data for Valparaiso and the East Chicago and Gary 1999 and 2000 TMDL mercury monitoring data.
- Information to be e-mailed to the workgroup members:
  - Mercury first notice published at 25 IR 2863 on June 1, 2002.
  - Six (6) comment letters received in response to 25 IR 2863 if they can be converted to PDF.
  - Table of contents page from MaryAnn's organized file of collected mercury documents collected to date.
  - Eric Fry's mercury sampling locations map.
- Receive workgroup members' submissions of suggested language about variance rule alternatives for inclusion in the reissuance of a first notice.
- Morris Beaton is to provide information on EPA's steps for reviewing an NPDES permit that includes a mercury variance. He also is trying to locate information about how many facilities need a mercury variance and which ones are GLI as opposed to non-GLI.
- Tim Lohner is to present a mercury workgroup status report to the March 19, 2003 Triennial Review Steering Committee.
- Steve Roush is working to complete the technical document regarding background research required by the workplan.

Next meeting

The next meeting is scheduled for April 9, 2003, from 9:00 to 11:00 A.M., at the IDEM Shadeland office, conference room K.